

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONNELL THOMAS HAYNIE,

Plaintiff,

v.

E. LILJOHN,

Defendant.

Case No. 1:20-cv-00457-NONE-JDP

ORDER SETTING SETTLEMENT
CONFERENCE

Plaintiff is a state inmate proceeding without counsel in this civil rights action brought under 42 U.S.C. § 1983. The Court has determined that this case will benefit from a settlement conference. Therefore, this case will be referred to Magistrate Judge Jennifer L. Thurston to conduct a settlement conference at the U. S. District Court, 510 19th Street, Bakersfield, California 93301 on December 11, 2020 at 9:00 a.m. The court will issue the necessary transportation order in due course.

In accordance with the above, IT IS HEREBY ORDERED that:

1. This case is set for a settlement conference before Magistrate Judge Jennifer L. Thurston on December 11, 2020 at 9:00 a.m. at the U. S. District Court, 510 19th Street, Bakersfield, California 93301.
2. A representative with full and unlimited authority to negotiate and enter into a binding

1 settlement shall attend in person.¹

2 3. Those in attendance must be prepared to discuss the claims, defenses and damages.

3 The failure of any counsel, party or authorized person subject to this order to appear in
4 person may result in the imposition of sanctions. In addition, the conference will not
5 proceed and will be reset to another date.

6 4. At least 21 days before the settlement conference, plaintiff SHALL submit to
7 defendant, by mail, a written itemization of damages and a meaningful settlement
8 demand, which includes a brief explanation of why such a settlement is appropriate,
9 not to exceed ten pages in length. Thereafter, no later than 14 days before the
10 settlement conference, defendant SHALL respond, by telephone or in person, with an
11 acceptance of the offer or with a meaningful counteroffer, which includes a brief
12 explanation of why such a settlement is appropriate. If settlement is achieved, defense
13 counsel is to immediately inform the courtroom deputy of Magistrate Judge Thurston.

14 5. If settlement is not achieved informally, each party shall provide a confidential
15 settlement statement no later than December 4, 2020 to jltorders@caed.uscourts.gov.
16 Plaintiff shall mail his confidential settlement statement Attn: Magistrate Judge
17 Jennifer L. Thurston, USDC CAED, 510 19th Street, Suite 200, Bakersfield, California
18 93301 so it arrives no later than December 4, 2020. The envelope shall be marked
19 "CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT." Parties are also

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21 ¹ While the exercise of its authority is subject to abuse of discretion review, "the district court has the
22 authority to order parties, including the federal government, to participate in mandatory settlement
23 conferences...." United States v. United States District Court for the Northern Mariana Islands, 694 F.3d 1051,
24 1053, 1057, 1059 (9th Cir. 2012)("the district court has broad authority to compel participation in mandatory
25 settlement conference[s]"). The term "full authority to settle" means that the individuals attending the
26 mediation conference must be authorized to fully explore settlement options and to agree at that time to any
27 settlement terms acceptable to the parties. G. Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648,
28 653 (7th Cir. 1989), cited with approval in Official Airline Guides, Inc. v. Goss, 6 F.3d 1385, 1396 (9th Cir. 1993).
The individual with full authority to settle must also have "unfettered discretion and authority" to change the
settlement position of the party, if appropriate. Pitman v. Brinker Int'l, Inc., 216 F.R.D. 481, 485-86 (D. Ariz.
2003), amended on recon. in part, Pitman v. Brinker Int'l, Inc., 2003 WL 23353478 (D. Ariz. 2003). The
purpose behind requiring the attendance of a person with full settlement authority is that the parties' view of
the case may be altered during the face to face conference. Pitman, 216 F.R.D. at 486. An authorization to
settle for a limited dollar amount or sum certain can be found not to comply with the requirement of full
authority to settle. Nick v. Morgan's Foods, Inc., 270 F.3d 590, 596-97 (8th Cir. 2001).

1 directed to file a “Notice of Submission of Confidential Settlement Statement” (See
2 L.R. 270(d)).

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4 Settlement statements **should not be filed** with the Clerk of the Court **nor served on**
5 **any other party**. Settlement statements shall be clearly marked “confidential” with
6 the date and time of the settlement conference indicated prominently thereon.

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8 The confidential settlement statement shall be **no longer than five pages** in length,
9 typed or neatly printed, and include the following:

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11 a. A brief statement of the facts of the case.
- 12 b. A brief statement of the claims and defenses, i.e., statutory or other grounds upon
13 which the claims are founded; a forthright evaluation of the parties’ likelihood of
14 prevailing on the claims and defenses; and a description of the major issues in
15 dispute.
- 16 c. A summary of the proceedings to date.
- 17 d. An estimate of the cost and time to be expended for further discovery, pretrial, and
18 trial.
- 19 e. The relief sought.
- 20 f. The party’s position on settlement, including present demands and offers and a
21 history of past settlement discussions, offers, and demands.
- 22 g. A brief statement of each party’s expectations and goals for the settlement
23 conference, including how much a party is willing to accept and/or willing to pay.
- 24 h. If the parties intend to discuss the joint settlement of any other actions or claims
25 not in this suit, give a brief description of each action or claim as set forth above,
26 including case number(s) if applicable.
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1 IT IS SO ORDERED.
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3 Dated: July 9, 2020
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UNITED STATES MAGISTRATE JUDGE

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6 No. 204.
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